

Amendment No. 2 to SB1086

Johnson
Signature of Sponsor

AMEND Senate Bill No. 1086

House Bill No. 1020*

by deleting all language after the caption and substituting instead the following:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 13, Chapter 7, is amended by adding the following new part:

13-7-601.

This part shall be known and may be cited as the "Short-Term Rental Unit Act."

13-7-602.

As used in this part:

(1) "Effectively prohibit" means a local governing body acts or fails to act in a manner that prevents a property owner from using the owner's property as a short-term rental unit after reasonable compliance with generally applicable local laws;

(2) "Generally applicable local law" means an ordinance, resolution, regulation, rule, or other requirement of any type other than zoning enacted, maintained, or enforced by a local governing body that applies to all property or use of all property and does not apply only to property used as a short-term rental unit;

(3) "Lawfully used as a short-term rental unit" means the property was held out to the public for use as a short-term rental unit. "Lawfully used as a short-term rental unit" may be established through a listing of the property on a short-term rental unit listing service, a written agreement between a short-term

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rental unit provider and a tenant to rent the property, or tax documents showing payment of any type of taxes, including, but not limited to, federal income taxes or any tax levied pursuant to title 67, on the renting of a short-term rental unit. However, for purposes of property that began being used as a short-term rental unit within the jurisdiction of a local governing body that required a permit to be issued prior to using the property as a short-term rental unit, "lawfully used as a short-term rental unit" may only be established through a permit having been issued by the local governing body to the property;

(4) "Local governing body" means the legislative body of a city, municipality, county, or other political subdivision of this state that has authority to enact a zoning ordinance, resolution, regulation, rule, or other requirement of any type regarding land use in its jurisdiction;

(5) "Residential dwelling" means a house or structure used or designed to be used as an abode or home of a person, family, or household, and includes a single-family dwelling, a portion of a single-family dwelling, or an individual residential dwelling in a multi-dwelling building, such as an apartment building, condominium, cooperative, or timeshare;

(6) "Prohibit" means to forbid or ban the operation of short-term rental units, either permanently or temporarily, within a local governing body's jurisdiction, portion of the local governing body's jurisdiction, or a portion of an owner's property;

(7) "Property" is a tract of land as recorded with the register of deeds office of the county where the property is located;

(8) "Provider" means any person engaged in renting a short-term rental unit;

(9) "Short-term rental unit" or "unit" means a residential dwelling that is rented wholly or partially for a fee for a period of less than thirty (30) continuous days and does not include a hotel as defined in § 68-14-302 or a bed and breakfast establishment or a bed and breakfast homestay as those terms are defined in § 68-14-502; and

(10) "Short-term rental unit listing service" means a person that facilitates or arranges the renting of short-term rental units, whether through the listing of short-term rental units on a website or through other means.

13-7-603.

(a) Except as otherwise provided in § 13-7-605 and subsection (b), an ordinance, resolution, regulation, rule, or other requirement of any type that prohibits, effectively prohibits, or otherwise regulates the use of property as a short-term rental unit shall not apply to property if the property was being lawfully used as a short-term rental unit by the owner of the property prior to the enactment of the ordinance, resolution, regulation, rule, or other requirement by the local governing body. The ordinance, resolution, regulation, rule, or other requirement in effect at the time the property began being lawfully used as a short-term rental unit is the law that governs the use of the property as a short-term rental unit until the property ceases being used as a short-term rental unit for a period of thirty (30) continuous months. For purposes of this subsection (a), an ordinance, resolution, regulation, rule, or other requirement is in effect at the time it is lawfully enacted by the local governing body and not the time in which it is introduced for consideration by the local governing body. It is the intent of this

subsection (a) to provide an owner of property with continued lawful use of the property without impairment from a local governing body.

(b) Notwithstanding subsection (a), an ordinance, resolution, regulation, rule, or other requirement of any type enacted prior to January 1, 2014, that prohibits or effectively prohibits the use of property as a short-term rental unit may apply to any property within a local governing body's jurisdiction, regardless of the property's existing use. However, this subsection (b) applies only to ordinances, resolutions, regulations, rules, or other requirements that expressly limit the period of time a residential dwelling may be rented, and does not apply to ordinances, resolutions, regulations, rules, or other requirements that generally prohibit commercial activity or the renting of residential dwellings to transients. It is the intent of this subsection (b) to grandfather ordinances, resolutions, regulations, rules, or other requirements that provided notice to property owners that renting a residential dwelling unit under a specified period of time was unlawful prior to a substantial number of property owners using their property as short-term rental units.

13-7-604.

(a) Section 13-7-603 does not prevent a local governing body from prohibiting, effectively prohibiting, or otherwise regulating the continued use of property as a short-term rental unit if, as a direct result of the operation of the short-term rental unit, the unit has been in violation of a generally applicable local law related to noise, parking, or habitability standards three (3) or more separate times within a twelve-month period, and the provider has no appeal rights remaining for any of the three (3) violations. The burden of proof that a violation of a generally applicable local law was a direct result of the operation of the short-term rental unit is on the local governing body.

(b) The local governing body may authorize short-term rental units through a permitting process, as long as the permitting process does not prohibit the continued use

of property as provided in § 13-7-603(a) or otherwise conflict with this part. A local governing body that accepts public complaints regarding the operation of short-term rental units in its jurisdiction pursuant to a permitting process shall assure that all complainants are notified that any false complaint made against a short-term rental unit provider shall be punished as perjury under § 39-16-702.

(c) Any suspension or revocation of a right to operate a short-term rental unit by a local governing body shall not exceed twelve (12) continuous months.

13-7-605.

(a) If a local governing body prohibits, effectively prohibits, or otherwise regulates the use of property as a short-term rental unit, the provider has the right to appeal the prohibition or limitation to the local board of zoning appeals. A decision of the local board of zoning appeals is appealable by the provider. The circuit or chancery court has jurisdiction of any appeal instituted by a provider pursuant to this subsection (a) and review is de novo.

(b) Any person injured as a result of a local governing body violating this part may bring an action in the circuit or chancery court having jurisdiction over the property upon which the short-term rental unit is located. The court may award actual damages to a plaintiff who prevails in an action brought pursuant to this part, including costs and reasonable attorney fees.

13-7-606.

Nothing in this part prohibits:

(1) A condominium, co-op, homeowners association, or other similar entity from prohibiting or otherwise restricting an owner of property within the jurisdiction of the condominium, co-op, association, or other similar entity from using the owner's property as a short-term rental unit as provided for in the entity's governing documents;

(2) A lessor, through the terms of a lease agreement, from restricting the use of the leased property as a short-term rental unit; or

(3) A property owner from placing a restrictive covenant or easement on the property that restricts the future use of the property as a short-term rental unit as authorized under existing law.

13-7-607.

For purposes of determining land use or utility rates, when determining whether a property conforms to the requirements of a residential zone or residential use, a local governing body or a municipal utility shall not consider the leasing of a residential dwelling as a short-term rental unit as commercial activity, regardless of the term of the lease agreement.

13-7-608.

This part supersedes any ordinance, resolution, regulation, rule, or other requirement of any type enacted, maintained, or enforced by a local governing body that is in conflict with this part.

SECTION 2. Tennessee Code Annotated, Section 68-14-302(6), is amended by adding the following language to the end of the subdivision:

"hotel" does not include a short-term rental unit, as defined in § 13-7-602;

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.